

BEFORE THE OFFICE OF CAMPAIGN FINANCE  
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS  
FRANK D. REEVES MUNICIPAL BUILDING  
2000-14<sup>th</sup> STREET, N.W., SUITE 420  
WASHINGTON, D.C. 20009  
(202) 671-0550

IN THE MATTER OF	)	DATE: January 13, 2004
	)	
Elaina MacKenzie	)	DOCKET NO.: 03F-061
Supervisory Social Worker	)	
Child and Family Services Agency	)	
4903 Elsmere Avenue	)	
Bethesda, Maryland 20814	)	

**ORDER**

**Statement of the Case**

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Elaina MacKenzie, Supervisory Social Worker, Child and Family Services Agency, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notices of Hearing, Statements of Violations and Orders of Appearance dated August 7, 2003 and August 19, 2003, OCF ordered Elaina MacKenzie (hereinafter respondent), to appear at scheduled hearings on August 18, 2003 and August 28, 2003 and show cause why she should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

**Summary of Evidence**

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On August 25, 2003, respondent filed an affidavit with OCF stating that she filed the required Financial Disclosure Statement on May 15, 2003, and that it was delivered to

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OCF with other FDS forms from her agency on the due date. OCF's records do not reflect receipt of respondent's FDS report. Respondent further stated that she did not retain a copy of the original FDS filed with OCF. Respondent is a Management Supervisory Service employee. Respondent filed a fully executed FDS with OCF on August 25, 2003.

**Findings of Fact**

Having reviewed the allegations and the record herein, I find:

1. Respondent is a member of the Management Supervisory Service.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
3. Respondent asserted that she filed an FDS with her agency on May 15, 2003, and that her agency filed the report with OCF on the due date, along with other FDS forms.
4. OCF records do not reflect receipt of respondent's FDS filed on May 15, 2003.
5. Respondent filed the required Financial Disclosure Statement on August 25, 2003.
6. Respondent is a first-time FDS required filer.
7. Respondent's explanation for the filing delinquency is credible in that certain government agencies assign the delivery of Financial Disclosure Statements to an employee of the agency on behalf of required FDS filers.
8. Respondent is currently in compliance with the statute.

**Conclusions of Law**

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.

3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

**Recommendation**

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

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**Date**

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**Jean Scott Diggs**  
**Hearing Officer**

**Concurrence**

In view of the foregoing, I hereby concur with the Recommendation.

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**Date**

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**Kathy S. Williams**  
**General Counsel**

**ORDER OF THE DIRECTOR**

**IT IS ORDERED** that the fine be hereby suspended in this matter.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Cecily E. Collier-Montgomery**  
**Director**

**SERVICE OF ORDER**

This is to certify that I have served a true copy of the foregoing Order.

\_\_\_\_\_  
**Rose Rice**  
**Legal Assistant**

**NOTICE**

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16<sup>th</sup> day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14<sup>th</sup> Street, N.W., Washington, D.C. 20009.